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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/102,238	06/22/1998	KENICHI KUBO	B208-967	1575

26272 7590 03/11/2003

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EXAMINER

VILLECCO, JOHN M

ART UNIT	PAPER NUMBER
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2612

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/102,238

Applicant(s)

KUBO ET AL.

Examiner

John M. Villecco

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 February 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Applicant has added claims 10-15 without cancelling a corresponding number of claims.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.


Claim(s) objected to: _____.

Claim(s) rejected: 8 and 9.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

Continuation of 10. Other: In order to speed the prosecution of the case a discussion of the applicant's arguments with respect to claim 8 will be presented. However, the examiner believes that amended claim 8 fails to overcome the art rejection based on Sato. It is submitted that Sato does disclose a rotary operation member (105), and conversion means for converting a rotating amount of said rotary operation member into an amount of variation of the control data of a position of a lens. The conversion is carried out by the CPU (104). It does translate the amount of movement of the rotary member into an amount of variation of the control data of a position of a lens. Furthermore, Sato teaches the ability to change between low, normal, and high speeds. These three speeds are interpreted as conversion characteristic modes and the CPU is capable of changing between them. Applicant argues that Sato discloses driving the zooming based on an operating speed and not by a rotation amount. The examiner believes that the rotation speed equates to a rotation amount. Even if it is construed that a rotation speed does not constitute a rotation amount as the applicant defines it, the rotary encoder does move a certain amount during the time of rotation. Therefore, if the amendment were eventually entered, the rejection of claim 8 would likely be upheld. It appears the the 112, 2nd paragraph rejection of claim 9, has been overcome by the non-entered amendment and would likely be allowed pending an updated search if the amendment were eventually entered.


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